

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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JUAN PEDRAZA,

Plaintiff,

23-cv-2596 (VF)

-against-

ORDER

MANHATTAN MONSTER INC. d/b/a The Monster
Bar, et al.,

Defendants.

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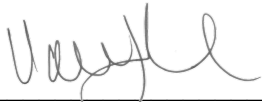
VALERIE FIGUEREDO, United States Magistrate Judge

Defendants’ motion (see ECF No. 132) to strike Plaintiff’s amended initial disclosures and preclude Plaintiff from introducing Mr. Ricardo Rodriguez as a witness at trial is hereby DENIED. Although Plaintiff has not proffered a substantial justification for the late disclosure of Mr. Rodriguez, the importance of his testimony weighs against precluding it. Further, any prejudice resulting from allowing the untimely Rule 26 disclosure may be cured by a continuance and permitting Defendants to depose Mr. Rodriguez. See L-3 Commc’ns Corp. v. OSI Sys., Inc., No. 2 Civ. 9144 (PAC), 2006 WL 988143, at *4-5 (S.D.N.Y. Apr. 13, 2006) (allowing trial testimony from witnesses not previously disclosed because discovery failure was harmless, “so long as [the opposing party] is provided an opportunity to depose the witnesses”). While courts in this District have shifted costs for reopening depositions, see, e.g., Town & Country Linen Corp. v. Ingenious Designs LLC, No. 18 Civ. 5075 (LJL), 2020 WL 5646154, at *2-3 (S.D.N.Y. Sept. 22, 2020) (shifting costs for reopening deposition due to late expert disclosure), cost shifting is not appropriate here because Mr. Rodriguez has not been previously deposed.

This case shall proceed to a jury trial on **Tuesday, January 7, 2025, at 9:30 a.m.** The Court has set aside three days for trial, through **Thursday, January 9, 2025, at 5:00 p.m.** The parties are directed to file the final pre-trial order by **Thursday, November 14, 2024.** A final pre-trial conference is scheduled for **Tuesday, December 17, 2025, at 3:30 p.m.** For the final pre-trial conference, the parties are directed to call Judge Figueroa's conference line (646)-453-4442 (passcode: 940 316 63#) at the specified time.

SO ORDERED.

DATED: New York, New York
November 13, 2024



VALERIE FIGUEROA
United States Magistrate Judge